

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:19-cr-101-HTW-FKB

MICHAEL DEWAYNE LEWIS

ORDER DENYING MOTION TO DISMISS BASED ON SPEEDY TRIAL VIOLATION

THIS MATTER, having come on for hearing on March 10, 2020, and the Court having heard and considered the Defendant's Motion to Dismiss Based on Speedy Trial Violation, the Government's Response in Opposition to said Motion and the arguments of counsel, does hereby find that said Motion is not well taken and should be Denied.

The Court finds that the Defendant filed a Motion to Continue on July 22, 2019 in which the Defendant explicitly waived any delay caused by a continuance granted upon said Motion. The Court finds that the Defendant thereafter filed a Motion to Suppress Identification Evidence on October 24, 2019 and filed another Motion to Continue on the same date. The Court finds that the Defendant's Motion to Suppress Identification Evidence, as of March 10, 2020 had not yet been heard, and required a hearing.

The Court further finds that Title 18, United States Code, Section 3161(h)(1)(D) excludes any delay resulting from any pretrial motion filed, and the filing of the motion through the conclusion of the hearing, or other prompt disposition thereof, and as such, said period is excluded in computing the time within which the trial of any offense must commence. The Court finds that any period of delay in this case that forms the basis of the Defendant's Motion, is excluded either explicitly by waiver of the Defendant, or is attributable to delay resulting from the filing of pretrial motions which had not yet been heard by this Court. The Court relies on *United States v. Johnson*,

29 F.3d 940, 942-43 (5th Cir. 1994) and *United States v. Tinklenberg*, 563 U.S. 647, 650-60 (2011) in reaching this decision.

IT IS THEREFORE ORDERED AND ADJUDGED, premises considered, that the Defendant's Motion to Dismiss Based on Speedy Trial Violation should be, and hereby is, DENIED.

SO ORDERED AND ADJUDGED this the 19th day of September, 2020.


UNITED STATES DISTRICT COURT JUDGE